UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,025	10/14/2003	Bernard Andreas	021629-002000US	4965

20350 7590 09/28/2007

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER	
TRUONG, KEVIN THAO	
ART UNIT	**PAPER NUMBER**
3734	

MAIL DATE	DELIVERY MODE
09/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/686,025	ANDREAS ET AL.	
	Examiner	Art Unit	
	Kevin T. Truong	3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 April 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *16-28* is/are pending in the application.

4a) Of the above claim(s) *25-28* is/are withdrawn from consideration.

5)☒ Claim(s) *16-21* is/are allowed.

6)☒ Claim(s) *22 and 23* is/are rejected.

7)☒ Claim(s) *24* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/15/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 22-23 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 42-46 of U.S. Patent No. 7,192,440. Although the conflicting claims are not identical, they are not patentably distinct from each other because the relatively subject matter claimed in the instant application such as method for delivering a plurality of stent segment to treatment sites in a body of a patient including at least positioning a distal portion of stent delivery catheter in the body lumen; moving a sheath to deploy the first stent segment; and repositioning the delivery catheter to a second treatment site to further deploy a second stent segment which would have been obvious in view of the relatively subject matter of the patent claims.

3. Claims 22-23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-31 of copending Application No. 11/538923. Although the conflicting claims are not identical, they are not patentably distinct from each other because because the relatively subject matter claimed in the instant application such as method for delivering a plurality of stent segment to treatment sites in a body of a patient including at least positioning a distal portion of stent delivery catheter in the body lumen; moving a sheath to deploy the first stent segment; and repositioning the delivery catheter to a second treatment site to further deploy a second stent segment which would have been obvious in view of the relatively subject matter of the patent claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claims 22-23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of copending Application No. 11/429,502. Although the conflicting claims are not identical, they are not patentably distinct from each other because the relatively subject matter claimed in the instant application such as method for delivering a plurality of stent segment to treatment sites in a body of a patient including at least positioning a distal portion of stent delivery catheter in the body lumen; moving a sheath to deploy the first stent segment; and repositioning the delivery catheter to a second treatment site to further deploy a second stent segment which would have been obvious in view of the relatively subject matter of the patent claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 22-23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 17-29 of copending Application No. 10/944,825. Although the conflicting claims are not identical, they are not patentably distinct from each other because the relatively subject matter claimed in the instant application such as method for delivering a plurality of stent segment to treatment sites in a body of a patient including at least positioning a distal portion of stent delivery catheter in the body lumen; moving a sheath to deploy the first stent segment; and repositioning the delivery catheter to a second treatment site to further deploy a second stent segment which would have been obvious in view of the relatively subject matter of the patent claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

6. Claims 22-23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 29-46 of copending Application No. 10/458,062. Although the conflicting claims are not identical, they are not patentably distinct from each other because the relatively subject matter claimed in the instant application such as method for delivering a plurality of stent segment to treatment sites in a body of a patient including at least positioning a distal portion of stent delivery catheter in the body lumen; moving a sheath to deploy the first stent segment; and repositioning the delivery catheter to a second treatment site to

further deploy a second stent segment which would have been obvious in view of the relatively subject matter of the patent claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

7. Claims 22-23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 20-49 of copending Application No. 10/624,451. Although the conflicting claims are not identical, they are not patentably distinct from each other because the relatively subject matter claimed in the instant application such as method for delivering a plurality of stent segment to treatment sites in a body of a patient including at least positioning a distal portion of stent delivery catheter in the body lumen; moving a sheath to deploy the first stent segment; and repositioning the delivery catheter to a second treatment site to further deploy a second stent segment which would have been obvious in view of the relatively subject matter of the patent claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

8. Claims 22-23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 55-79 of copending Application No. 10/794,405. Although the conflicting claims are not identical, they are not patentably distinct from each other because the relatively subject matter claimed in the instant application such as method for delivering a plurality of stent segment to treatment sites in a body of a patient including at least positioning a distal

portion of stent delivery catheter in the body lumen; moving a sheath to deploy the first stent segment; and repositioning the delivery catheter to a second treatment site to further deploy a second stent segment which would have been obvious in view of the relatively subject matter of the patent claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Claims 22-23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-35 of copending Application No. 10/306,813. Although the conflicting claims are not identical, they are not patentably distinct from each other because the relatively subject matter claimed in the instant application such as method for delivering a plurality of stent segment to treatment sites in a body of a patient including at least positioning a distal portion of stent delivery catheter in the body lumen; moving a sheath to deploy the first stent segment; and repositioning the delivery catheter to a second treatment site to further deploy a second stent segment which would have been obvious in view of the relatively subject matter of the patent claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Allowable Subject Matter

10. Claims 16-21 are allowed.

11. Claim 24 would be allowable if rewritten to overcome the rejection(s) under a nonstatutory obviousness-type double patenting rejection, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin T. Truong whose telephone number is 571-272-4705. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 6:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on 571-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kevin T. Truong
Primary Examiner
Art Unit 3734

ktt